Supreme Court, U.S.
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No. 1

In The

Supreme Court of the United States

Elizabeth Alden,
Petitioner(s)
v.
St. Joseph's Hospital Health Center,
Counsel: Samuel Young, esq.
Costello, Cooney and Fearon
Salina Place
205 South Salina Street
Syracuse, NY 13202
(315) 422-1152
Respondent(s)

On Petition For Writ Of Certiorari
To The Supreme Court of the United States
For Review of New York State Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Elizabeth Alden
10 Clinton St., # 807
Whitesboro, NY 13492
(315) 768-7695

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Elizabeth Alden – PETITIONER

vs.

St. Joseph's Hospital Health Center-
Counsel: Samuel Young, esq.
Costello, Cooney and Fearon
Salina Place
205 South Salina Street
Syracuse, NY 13202
(315) 422-1152
RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

New York State Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Elizabeth Alden
10 Clinton St., # 807
Whitesboro, NY 13492
(315) 768-7695

QUESTION(S) PRESENTED

1. Is the construction of New York State Mental Hygiene Law's statute Article 9 constitutional?

2. Were the Petitioner's constitutional right's violated?

3. Would Constitutional guaranties prevent consumer fraud of unlawful imprisonment committed by the Respondent, St. Joseph's Hospital Health Center, a corporation in business to profit?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

CORPORATE DISCLOSURE STATEMENT

Petitioner has no parent or publicly held company owning 10% or more in a corporation's stock.

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APPENDIX D — May 8, 2007, Decision by State of New York Court of Appeals. (4NY Jur 2d, Sec. 74 and Sec. 76)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Matter of James, 29 A D 2d 72	4
Matter of Coates, 14 Misc. 2d 89	4
People v. Fuller, 57 Misc. 2d 350	4
In the Matter of Charles Judge, 192 Misc. 2d 203	4
In the Matter of Paul James, 54 Misc. 2d 514	4
Matter of Kesselbrenner v. Anonymous, 39 A D 2d 410	4

STATUTES AND RULES

United States Constitution of America, Article III and Amendments 4, 5, 6 and 14.	3,4,6
New York State Mental Hygiene Law, Article 9.	3,4,6
Consumer Protection	4,6

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix D to the petition.

The Opinion of the New York State Court of Appeals court appears at Appendix D to the petition.

JURISDICTION

The date on which the highest state court decided my case was May 8, 2007. A copy of that decision appears at Appendix D.

A timely petition for rehearing was thereafter denied on the following date: October 23, 2007, and a copy of the order denying rehearing appears at Appendix A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- The Constitution of the United States of America, Article III, and Amendments 4, 5, 6 and 14.

- NYS Mental Hygiene Law, Article 9.

STATEMENT OF THE CASE

1. Under New York State Mental Hygiene Law's Statute Article 9 there exists no provisions for jury trials, and other constitutional rights as to confront witnesses against you, to obtain witnesses in your favor, to be provided with counsel for your defense, or to have equal protection of the laws. (Refer to the United States Constitution of America, Article III, and Amendments 4, 5, 6 and 14).

2. The Petitioner herein was alleged by the Respondent of NYS MHL Article 9. Due to the unconstitutional construction of the New York State Mental Hygiene Law's Article 9 statute, the Petitioner has had no way to prove the allegations are false. As with Matter of James; Matter of Coates; People v. Fuller; In the Matter of Charles Judge; In the Matter of Paul James and others such as Matter of Kesselbrenner v. Anonymous Mental Hygiene Law's statutes were found unconstitutional and overturned by the Courts.

3. Respondent, St. Joseph's Hospital Health Center, is a corporation in business to profit using New York State Mental Hygiene Law's lack of Constitutional guaranties to commit the most egregious form of consumer fraud – unlawful imprisonment.

REASONS FOR GRANTING THE PETITION

The lower courts have ruled erroneously and the Petitioner therefore respectfully requests the Supreme Court of the United States review and overturn their decisions.

CONCLUSION

The Petitioner's Constitutional rights were violated by the Respondent, St. Joseph's Hospital Health Center, under the New York State Mental Hygiene Law's Article 9 which does not provide for the United States Constitution's Article III and Amendments 4, 5, 6 and 14. The Petitioner whose constitutional rights have been violated, respectfully requests the petition granted. Unlawful imprisonment committed by the Respondent is the most egregious form of consumer fraud upon New York State possible due to NYS Mental Hygiene Law's lack of Constitutional guaranties.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Elizabeth Alden

Date: 1/19/08

APPENDIX A

State of New York,
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the twenty-third day of October 2007

Present, Hon. Judith S. Kaye, Chief Judge, presiding.

Mo. No. 1158 SSD 53

Elizabeth Alden,

Appellant,

v.

St. Joseph's Hospital Health Center,

Respondent.

The appellant having filed notice of appeal in the above title and due consideration having been thereupon had, it is

ORDERED, that the appeal be and the same hereby is dismissed without costs, by the Court sua sponte, upon the ground that it does not lie (see CPLR 5601).

s/Stuart M. Cohen

Stuart M. Cohen
Clerk of the Court

APPENDIX B

Edward D. Carni
Justice

Supreme Court
Chambers
Suite 404
Onondaga County
Courthouse
Syracuse, NY 13202
(315) 671-1108
FAX (315) 671-1177

John E. Short
Principal Law
Clerk

Erika A.
Gallucci-Koster
Secretary

December 14, 2005

Ms. Elizabeth Alden
P.O. Box 11502
Syracuse, NY 13218

Samuel C. Young, Esq.
Costello, Cooney & Fearon, PLLC
205 South Salina Street
Syracuse, NY 13202

Re: Letter Decision – Elizabeth Alden v. St. Joseph's Hospital
Index No. 04-3405

Dear Ms. Alden and Attorney Young:

Defendant St. Joseph's Hospital Health Center brings this motion seeking an order pursuant to New

York Reform Rules § 202.21(e) striking the plaintiff's trial Note of Issue and Certificate of Readiness on the grounds that discovery is not complete. Additionally, defendant seeks an order compelling the plaintiff to execute medical authorizations for the release of certain medical and psychiatric records of the plaintiff. Initially, the court notes that the parties have scheduled a deposition for December 12, 2005 at 10:00 a.m. There are outstanding medical records authorizations that have not been provided by plaintiff under a claim of privilege. Under these circumstances, it is clear that the matter is not ready for trial and therefore, the plaintiff's trial term Note of Issue and Certificate of Readiness are stricken and vacated.

It is well-settled that a party who brings a claim for damages arising out of an alleged false imprisonment and detention under New York's Mental Hygiene Law places his or her physical and mental condition in issue and simultaneously waives any claim of physician-patient privilege. During the discovery phase of litigation, a request for medical records authorizations or other discovery materials is not judged by the relevancy standard. Relevancy is an issue at the time of trial. The standard for discovery is whether the information sought is material and necessary or likely to lead to discoverable material.

Here, the court finds that the medical an psychiatric records sought by the defendant are discoverable (as separate and distinct from whether they will be relevant and admissible at trial). Accordingly, the court directs the plaintiff shall execute the medical records authorizations as

requested by defendant within ten (7) days from the date of this decision.[1]

Additionally, the plaintiff has requested that I recuse myself if I have ever participated in the "unconstitutional New York State Mental Hygiene Law". As a State Supreme Court Justice, I have taken an oath to uphold the Constitution and the laws promulgated by the Legislature of this State. This court is involved in the adjudication of matters involving New York's Mental Hygiene Law. This court finds no basis for a recusal based upon the court's Constitutional role in adjudicating matters under the New York Mental Hygiene Law. Accordingly, the plaintiff's request for recusal is denied.

The court has considered all other requests and arguments of plaintiff, including plaintiff's request for summary judgment, and finds them to be without merit and they are therefore denied.

This constitutes the decision of the court. Defendant's counsel to submit proposed order on notice to the plaintiff.

Sincerely,

s/Edward D. Carni

Edward D. Carni
Supreme Court Justice
EDC/eg

[1]These authorizations are annexed to defendant's moving papers at Exhibit "C" and are for the records of Martin Morell, M.D. and University Hospital.

APPENDIX C

Supreme Court of the State of New York
Appellate Division, Fourth Judicial Department

14
CA 06-02724

PRESENT: SCUDDER, P.J., HURLBUTT, GORSKI, CENTRA, AND LUNN, JJ.

ELIZABETH ALDEN, PLAINTIFF-APPELLANT,

V ORDER

ST. JOSEPH'S HOSPITAL HEALTH CENTER, DEFENDANT-RESPONDENT.

ELIZABETH ALDEN, PLAINTIFF-APPELLANT PRO SE.

COSTELLO, COONEY & FEARON, PLLC, SYRACUSE (SAMUEL C. YOUNG OF COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Onondaga County (Edward D. Carni, J.), entered March 9, 2006. The order, among other things, granted defendant's motion to strike the note of issue and certificate of readiness.

It is hereby ORDERED that the order so

appealed from be and the same hereby is unanimously affirmed without costs.

Entered: February 2, 2007

JoAnn M. Wahl,
Clerk of the Court

APPENDIX D

State of New York
Court of Appeals

Stuart M. Cohen
Clerk of the Court

Clerk's Office
Albany, New York 12207-1095

DECISION May 8, 2007

Mo. No. 569 SSD 22
Elizabeth Alden,
Appellant,
v.
St. Joseph's Hospital
Health Center,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

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